

me

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

2008 SEP -2 AM 11:09

UNITED STATES OF AMERICA

) Magistrate Docket No. 7

CLERK OF COURT
SOUTHERN DISTRICT OF CALIFORNIA

Plaintiff

v.

Eleazar GARCIA JIMENEZ

Defendant

) COMPLAINT FOR

) VIOLATION OF:

) TITLE 18 U.S.C. § 1544

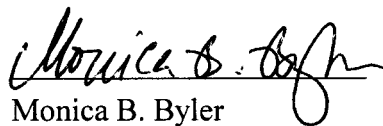
) Misuse of Passport (Felony)

BY [Signature] 08 MJ 2685

The undersigned complainant, being duly sworn, states:

On or about August 29, 2008, within the Southern District of California, defendant Eleazar GARCIA JIMENEZ did knowingly and willfully use a passport issued or designed for the use of another, with the intent to gain admission into the United States in the following manner, to wit: Defendant applied for entry to the United States by presenting U.S. Passport number XXXXX4914, issued in the identity of minor child M-E-C-C, to a Department of Homeland Security, Customs and Border Protection Officer, at the San Ysidro Port of Entry, knowing full well that he was not M-E-C-C, that the passport was not issued or designed for his use; in violation of Title 18, United States Code, Section 1544.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



Monica B. Byler
Special Agent
U.S. Department of State
Diplomatic Security Service

SWORN AND SUBSCRIBED TO before me

This 2d day of Sept, 2008.

[Signature] UNITED STATES MAGISTRATE JUDGE

8/29/08 [Signature]

jme

PROBABLE CAUSE STATEMENT & STATEMENT OF FACTS

I, Monica B. Byler, being duly sworn, declare under penalty of perjury that the following statement is true and correct:

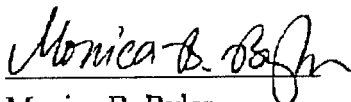
1. I am a Special Agent (SA) with the U.S. Department of State, Diplomatic Security Service (DSS) assigned to the San Diego, CA Resident Office. I have been so employed for eight years and have investigated numerous violations involving the false application for and misuse of United States Passports and Visas.
2. During the performance of my duties, I have obtained evidence that Eleazar GARCIA JIMENEZ used the passport issued for the use of another. This Affidavit is made in support of a complaint against DEFENDANT for violation of Title 18, U.S.C., Section 1544, Misuse of a Passport.
3. On 08/29/2008, at approximately 0944 hours, DEFENDANT presented himself to a Department of Homeland Security, Customs and Border Protection (CBP) Officer at the pedestrian lines of the San Ysidro Port of Entry, to apply for admission into the United States. DEFENDANT identified himself with U.S. Passport number XXXXX4914, bearing the name M-E-C-C (a minor child), DPOB 09/07/1993, California, U.S.A, and a photograph that was not DEFENDANT. DEFENDANT was sent to secondary inspection.
4. On 08/29/2008, DEFENDANT was fingerprinted and records revealed a criminal history and an immigration history, both in the name Eleazar GARCIA JIMENEZ, DPOB 08/19/1986, Mexico.
5. On 08/29/2008, at approximately 1130 hours, the Affiant was advised that a CBP Officer at the San Ysidro POE that DEFENDANT had been detained at the secondary inspection area of the San Ysidro POE.
6. On 08/29/2008, record checks of the U.S. Department of State passport database were conducted which revealed that U.S. Passport number XXXXX4914 was issued to M-E-C-C and the photo on the application matched the photo on the passport that was presented by DEFENDANT.
7. On 08/29/2008, at approximately 1210 hours, DEFENDANT was retrieved from the pedestrian secondary inspection area and was brought to an interview room. A DSS Special Agent, assisted by Affiant and a CBP Enforcement Officer, who acted as translator when necessary, interviewed DEFENDANT on videotape. DEFENDANT read his Miranda warning aloud in Spanish from a written copy. He indicated that he understood and waived his right to counsel. He admitted that his true name was Eleazar GARCIA JIMENEZ, DPOB 08/19/1986, Veracruz, Mexico. He stated that he was a citizen of Mexico and not of the United States. DEFENDANT admitted that he had been ordered deported by an Immigration Judge and was subsequently removed to Mexico in June 2008. DEFENDANT stated that he attempted to re-enter the United States on or about 08/24/2008 and 08/26/2008. DEFENDANT stated that on or about 08/28/2008, he promised to pay a document vendor \$3,000 in exchange for a U.S.

Passport and to be smuggled to Los Angeles. On 08/29/2008, DEFENDANT was provided U.S. Passport number XXXXX4914, issued in the identity of M-E-C-C by a smuggler. He admitted that he subsequently used that U.S. Passport to apply for entry into the United States at the San Ysidro Port of Entry on 08/29/2008. He admitted knowing that the passport was not issued or designed for his use. DEFENDANT admitted that this was his third attempt to illegally enter the U.S. after having been deported in the last five days. DEFENDANT admitted that the passport was not his and that he had no reason to believe that it was fake.

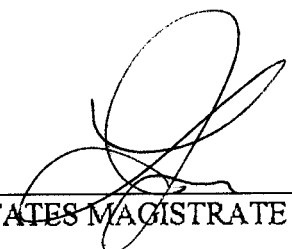
8. DEFENDANT said that he had previously been living illegally in the United States for several years. DEFENDANT made a recorded oral confession as to his true identity and elements of the charge, and made a written statement.

9. On 08/29/2008, Affiant contacted the emergency contact number listed for VICTIM, M-E-C-C, when VICTIM could not be reached by telephone. VICTIM's uncle stated that the family's truck had been burglarized in Tijuana, Mexico, and that VICTIM and both of his parents had all had their passports stolen. The uncle stated that he believed the passports had been reported stolen.

On the basis of the facts presented in this probable cause statement consisting of 2 pages, there is probable cause to believe that the defendant named in this probable cause statement committed the offense on 08/29/2008 - in violation of Title 18, United States Code, Section 1544: Misuse of a passport - when he knowingly and willfully used the passport belonging to another, M-E-C-C.


Monica B. Byler
Special Agent
U.S. Department of State
Diplomatic Security Service

08/29/2008 2000hrs
(date/time)


UNITED STATES MAGISTRATE JUDGE

8/30/08 - 8:20Am
(date/time)